IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Co.Appeal.No. 47 of 2004(A)

(AGAINST THE ORDER DATED 7.7.2004 IN C.P.NO.28/1995 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT (COMPANY COURT) ON THE REPORT NO.18 OF THE OFFICIAL LIQUIDATOR)

APPELLANT/RESPONDENT IN REPORT NO.18:

UNION BANK OF INDIA, CONVENT ROAD JN. BRANCH, NOW ERNAKULAM BRANCH, M.G.ROAD, KOCHI 35, REP. BY ITS CHIEF MANAGER, MATHEW VARGHESE.

BY ADV. SRI.A.V.THOMAS
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS

RESPONDENTS: PETITIONER:

THE OFFICIAL LIQUIDATOR, HIGH COURT OF KERALA, OFFICE OF THE OFFICIAL LIQUIDATOR, CARMEL BUILDINGS, BANERJI ROAD, ERNAKULAM 18.

BY ADV. SRI.K.MONI

THIS COMPANY APPEAL HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

CO.APPEAL.NO.47 OF 2004 ()

Dated this the 26th day of June, 2007

J U D G M E N T

KOSHY,J.

Appellant Bank obtained a decree against the company, M/s.Chancellor Paper Mills (P) Ltd. (in liquidation). The company was already declared as a Sick Industrial Company by the Board for Industrial and Financial Reconstruction (BIFR). The Bank sought permission to file a suit against the company from the appellate authority for Industrial and Financial Reconstruction. (AAIFR). Hence suit was filed and it was numbered as O.S.No.201/1996. It was filed on 16.9.1996. It was decreed on 26.2.2001. The company was ordered to be wound up and Official Liquidator by official report directed the appellant bank to remit an amount of Rs.1,67,958.58, with interest lying in the Bank in the account of the company. Admittedly, liquidation proceedings was before the decree and even before filing of the suit. At the time of filing the report,

there was no decree in favour of the Bank. The suit was filed only in 1996. Therefore company court allowed the report and directed the official liquidator to withdraw the amount from the appellant Bank towards the dues of the company in liquidation. We see no ground to interfere and this may not prevent the bank from making claims before the official liquidator for getting the due share depending upon the distribution of assets of the liquidated company. With the above observations this appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

CO.A.NO.47 OF 2004 ()

J U D G M E N T

26th June, 2007